

AN ACT

relating to certain retail installment contracts and leases for vehicles; providing for a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 345.005, Finance Code, is amended to read as follows:

Sec. 345.005. ITEMIZED CHARGE. An amount charged to a retail buyer in a retail installment contract or retail charge agreement is an itemized charge if the amount is not included in the cash price and is the amount of:

(1) fees prescribed by law for filing, recording, or otherwise perfecting, releasing, or satisfying a security interest created in connection with a retail installment transaction or nonfiling insurance premiums as authorized by Section 345.212;

(2) fees for registration or a certificate of title;

(3) any taxes;

(4) fees or charges prescribed by law and connected with the sale or inspection of the goods or services subject to the contract or agreement;

(5) premiums and other charges for insurance authorized by Subchapter E;

(6) official fees for a construction permit or the filing or recording of a construction permit;

(7) a documentary fee authorized under Section

1 345.251; [~~and~~]

2 (8) in a retail installment transaction involving  
3 modernization, rehabilitation, repair, alteration, improvement, or  
4 construction of real property, reasonable and necessary costs,  
5 including amounts, paid by the holder:

6 (A) for title insurance or title examination and  
7 opinion that does not exceed the amount set by the commissioner of  
8 insurance for title insurance for the transaction;

9 (B) to a person who is not a salaried employee of  
10 the holder for an appraisal or inspection or for investigating the  
11 credit standing or creditworthiness of the retail buyer; or

12 (C) to an attorney who is not a salaried employee  
13 of the holder as a legal fee for the preparation of documents in  
14 connection with the transaction; and

15 (9) charges for a debt cancellation agreement under  
16 Chapter 354.

17 SECTION 2. Subchapter B, Chapter 345, Finance Code, is  
18 amended by adding Section 345.084 to read as follows:

19 Sec. 345.084. DEBT CANCELLATION AGREEMENT. A debt  
20 cancellation agreement under Chapter 354 may be offered in  
21 connection with a retail installment contract for a covered vehicle  
22 to which this chapter applies. For purposes of this section,  
23 "covered vehicle" has the meaning assigned by Section 354.001.

24 SECTION 3. Section 348.114, Finance Code, is amended by  
25 amending Subsection (a) and adding Subsection (c) to read as  
26 follows:

27 (a) If a retail installment contract that provides for a

1 time price differential that is computed using the add-on method or  
2 the scheduled installment earnings method is amended to defer all  
3 or a part of one or more installments for not longer than three  
4 months, the holder may collect from the retail buyer:

5 (1) a deferment charge in an amount computed on the  
6 amount deferred for the period of deferment at a rate that does not  
7 exceed the effective return for time price differential permitted  
8 for a monthly payment retail installment contract; and

9 (2) the amount of the additional cost to the holder  
10 for:

11 (A) premiums for continuing in force any  
12 insurance coverages provided for by the contract; and

13 (B) any additional necessary official fees.

14 (c) If a retail installment contract that provides for a  
15 time price differential that is computed using the true daily  
16 earnings method is amended to defer all or a part of one or more  
17 installments, the holder may charge and receive from the retail  
18 buyer time price differential on the unpaid balance of the contract  
19 at the rate agreed to in the contract. At the time of deferment, the  
20 holder must provide the following written notice to the retail  
21 buyer that is boldfaced, capitalized, or underlined or otherwise  
22 conspicuously set out from any surrounding written material:  
23 "FINANCE CHARGES WILL CONTINUE TO ACCRUE ON THE UNPAID BALANCE AT  
24 THE CONTRACT RATE. BY DEFERRING ONE OR MORE INSTALLMENTS, YOU WILL  
25 PAY MORE FINANCE CHARGES THAN ORIGINALLY DISCLOSED." A holder does  
26 not collect a deferment charge by the accrual of time price  
27 differential on the unpaid balance of the contract.

1 SECTION 4. Section 348.124(a), Finance Code, is amended to  
2 read as follows:

3 (a) In connection with a retail installment transaction  
4 under this chapter, a retail seller may offer to the retail buyer a  
5 debt cancellation agreement, including a guaranteed asset  
6 protection waiver or similarly named agreement. If the retail  
7 installment transaction requires insurance coverage as part of the  
8 retail buyer's responsibility to the holder, the debt cancellation  
9 agreement, guaranteed asset protection waiver, or similarly named  
10 agreement must be offered under Chapter 354. The retail seller may  
11 not require that the purchase of a debt cancellation agreement by  
12 the retail buyer be made in order to enter into a retail installment  
13 transaction.

14 SECTION 5. Section 348.208(b), Finance Code, is amended to  
15 read as follows:

16 (b) A retail installment contract may include as a separate  
17 charge an amount for:

18 (1) motor vehicle property damage or bodily injury  
19 liability insurance;

20 (2) mechanical breakdown insurance;

21 (3) participation in a motor vehicle theft protection  
22 plan;

23 (4) insurance to reimburse the retail buyer for the  
24 amount computed by subtracting the proceeds of the buyer's basic  
25 collision policy on the motor vehicle from the amount owed on the  
26 vehicle if the vehicle has been rendered a total loss;

27 (5) a warranty or service contract relating to the

1 motor vehicle;

2 (6) an identity recovery service contract; or

3 (7) a debt cancellation agreement, including a debt  
4 cancellation agreement under Chapter 354, if the agreement is  
5 included as a term of a retail installment contract under Section  
6 348.124.

7 SECTION 6. Subchapter G, Chapter 348, Finance Code, is  
8 redesignated as Chapter 354, Finance Code, and amended to read as  
9 follows:

10 CHAPTER 354 [~~SUBCHAPTER G~~]. [~~CERTAIN~~] DEBT CANCELLATION AGREEMENTS  
11 FOR CERTAIN RETAIL VEHICLE INSTALLMENT SALES

12 Sec. 354.001. DEFINITIONS. In this chapter:

13 (1) "Contract" means a retail installment contract  
14 made under Chapter 345 or 348.

15 (2) "Covered vehicle" includes a self-propelled or  
16 towed vehicle designed for personal use, including an automobile,  
17 truck, motorcycle, recreational vehicle, all-terrain vehicle,  
18 snowmobile, camper, boat, personal watercraft, and personal  
19 watercraft trailer.

20 (3) "Debt cancellation agreement" means a contract  
21 term or a contractual arrangement modifying a contract term under  
22 which a retail seller or holder agrees to cancel all or part of an  
23 obligation of the retail buyer to repay an extension of credit from  
24 the retail seller or holder on the occurrence of the total loss or  
25 theft of the covered vehicle that is the subject of the contract but  
26 does not include an offer to pay a specified amount on the total  
27 loss or theft of the covered vehicle.

1           (4) "Holder" means a person who is:

2                   (A) a retail seller; or

3                   (B) the assignee or transferee of a contract.

4           (5) "Retail buyer" means a person who purchases or  
5 agrees to purchase a covered vehicle from a retail seller in a  
6 retail installment transaction.

7           (6) "Retail seller" means a person in the business of  
8 selling covered vehicles to retail buyers in retail installment  
9 transactions.

10           Sec. 354.002 [~~348.601~~]. LIMITATION ON CERTAIN DEBT  
11 CANCELLATION AGREEMENTS. (a) This chapter [~~subchapter~~] applies  
12 only to a debt cancellation agreement that includes insurance  
13 coverage as part of the retail buyer's responsibility to the  
14 holder.

15           (b) The amount charged for a debt cancellation agreement  
16 made in connection with a [~~retail installment~~] contract may not  
17 exceed five percent of the amount financed pursuant to the [~~retail~~  
18 ~~installment~~] contract. Section 348.124(c) does not apply to a debt  
19 cancellation agreement regulated under this chapter [~~subchapter~~].

20           (c) The debt cancellation agreement becomes a part of or a  
21 separate addendum to the [~~retail installment~~] contract and remains  
22 a term of the [~~retail installment~~] contract on the assignment,  
23 sale, or transfer by the holder.

24           (d) A debt cancellation agreement to which this chapter  
25 applies is not insurance.

26           Sec. 354.003 [~~348.602~~]. DEBT CANCELLATION AGREEMENTS  
27 EXCLUSION LANGUAGE. (a) In addition to the provisions required by

1 Section 354.004 [~~348.603~~], a debt cancellation agreement must fully  
2 disclose all provisions permitting the exclusion of loss or damage  
3 including, if applicable:

4 (1) an act occurring after the original maturity date  
5 or date of the holder's acceleration of the [~~retail installment~~]  
6 contract;

7 (2) any dishonest, fraudulent, illegal, or  
8 intentional act of any authorized driver that directly results in  
9 the total loss of the covered [~~motor~~] vehicle;

10 (3) any act of gross negligence by an authorized  
11 driver that directly results in the total loss of the covered  
12 [~~motor~~] vehicle;

13 (4) conversion, embezzlement, or concealment by any  
14 person in lawful possession of the covered [~~motor~~] vehicle;

15 (5) lawful confiscation by an authorized public  
16 official;

17 (6) the operation, use, or maintenance of the covered  
18 [~~motor~~] vehicle in any race or speed contest;

19 (7) war, whether or not declared, invasion,  
20 insurrection, rebellion, revolution, or an act of terrorism;

21 (8) normal wear and tear, freezing, or mechanical or  
22 electrical breakdown or failure;

23 (9) use of the covered [~~motor~~] vehicle for primarily  
24 commercial purposes;

25 (10) damage that occurs after the covered [~~motor~~]  
26 vehicle has been repossessed;

27 (11) damage to the covered [~~motor~~] vehicle before the

1 purchase of the debt cancellation agreement;

2 (12) unpaid insurance premiums and salvage, towing,  
3 and storage charges relating to the covered [~~motor~~] vehicle;

4 (13) damage related to any personal property attached  
5 to or within the covered [~~motor~~] vehicle;

6 (14) damages associated with falsification of  
7 documents by any person not associated with the retail seller or  
8 other person canceling the retail buyer's obligation;

9 (15) any unpaid debt resulting from exclusions in the  
10 retail buyer's primary physical damage coverage not included in the  
11 debt cancellation agreement;

12 (16) abandonment of the covered [~~motor~~] vehicle by the  
13 retail buyer only if the retail buyer voluntarily discards, leaves  
14 behind, or otherwise relinquishes possession of the covered [~~motor~~]  
15 vehicle to the extent that the relinquishment shows intent to  
16 forsake and desert the covered [~~motor~~] vehicle so that the covered  
17 [~~motor~~] vehicle may be appropriated by any other person;

18 (17) any amounts deducted from the primary insurance  
19 carrier's settlement due to prior damages; and

20 (18) any loss occurring outside the United States or  
21 outside the United States and Canada.

22 (b) An exclusion of loss or damage not listed in Subsection  
23 (a) may be included in a debt cancellation agreement only if the  
24 exclusion is disclosed in plain, easy to read language.

25 Sec. 354.004 [~~348.603~~]. REQUIRED DEBT CANCELLATION  
26 AGREEMENT LANGUAGE. A debt cancellation agreement must state:

27 (1) the contact information of the retail seller, the

1 holder, and any administrator of the agreement;

2 (2) the name and address of the retail buyer;

3 (3) the cost and term of the debt cancellation  
4 agreement;

5 (4) the procedure the retail buyer must follow to  
6 obtain benefits under the terms of the debt cancellation agreement,  
7 including a telephone number and address where the retail buyer may  
8 provide notice under the debt cancellation agreement;

9 (5) the period during which the retail buyer is  
10 required to notify the retail seller, the holder, or any  
11 administrator of the agreement~~[7]~~ of any potential loss under the  
12 debt cancellation agreement for total loss or theft of the covered  
13 ~~[motor]~~ vehicle;

14 (6) that in order to make a claim, the retail buyer  
15 must provide or complete some or all of the following documents and  
16 provide those documents to the retail seller, the holder, or any  
17 administrator of the agreement:

18 (A) a debt cancellation request form;

19 (B) proof of loss and settlement payment from the  
20 retail buyer's primary comprehensive, collision, or uninsured or  
21 underinsured motorist policy or other parties' liability insurance  
22 policy for the settlement of the insured total loss of the covered  
23 ~~[motor]~~ vehicle;

24 (C) verification of the retail buyer's primary  
25 insurance deductible;

26 (D) a copy of any police report filed in  
27 connection with the total loss or theft of the covered ~~[motor]~~

1 vehicle; and

2 (E) a copy of the damage estimate;

3 (7) that documentation not described by Subdivision  
4 (6) or required by the retail seller, the holder, or any  
5 administrator of the agreement is not required to substantiate the  
6 loss or determine the amount of debt to be canceled;

7 (8) that notwithstanding the collection of the  
8 documents under Subdivision (6), on reasonable advance notice the  
9 retail seller, the holder, or any administrator of the agreement  
10 may inspect the retail buyer's covered [~~motor~~] vehicle;

11 (9) that the retail seller or holder will cancel all or  
12 part of the retail buyer's obligation as provided in the debt  
13 cancellation agreement on the occurrence of total loss or theft of  
14 the covered [~~motor~~] vehicle;

15 (10) the method to be used to calculate refunds;

16 (11) the method for calculating the amount to be  
17 canceled under the debt cancellation agreement on the occurrence of  
18 total loss or theft of a covered [~~motor~~] vehicle;

19 (12) that purchase of a debt cancellation agreement is  
20 not required for the retail buyer to obtain an extension of credit  
21 and will not be a factor in the credit approval process;

22 (13) that in order to cancel the debt cancellation  
23 agreement and receive a refund, the retail buyer must provide a  
24 written request to cancel to the retail seller, the holder, or any  
25 administrator of the agreement;

26 (14) that if total loss or theft of the covered [~~motor~~]  
27 vehicle has not occurred, the retail buyer has 30 days from the date

1 of the [~~retail installment~~] contract or the issuance of the debt  
2 cancellation agreement, whichever is later, or a longer period as  
3 provided under the debt cancellation agreement, to cancel the debt  
4 cancellation agreement and receive a full refund;

5 (15) that the retail buyer may file a complaint with  
6 the commissioner, and include the address, phone number, and  
7 Internet website of the Office of Consumer Credit Commissioner; and

8 (16) that the holder will cancel certain amounts under  
9 the debt cancellation agreement for total loss or theft of a covered  
10 [~~motor~~] vehicle, in the following or substantially similar  
11 language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS  
12 CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE COVERED VEHICLE  
13 AS STATED IN THE DEBT CANCELLATION AGREEMENT."

14 Sec. 354.005 [~~348.604~~]. APPROVAL OF FORMS FOR DEBT  
15 CANCELLATION AGREEMENTS. (a) Debt cancellation agreement forms  
16 must be submitted to the commissioner for approval. Debt  
17 cancellation agreement forms may include additional language to  
18 supplement the terms of the debt cancellation agreement as required  
19 by this chapter [~~subchapter~~].

20 (b) If a debt cancellation agreement form is provided to the  
21 commissioner for approval, the commissioner has 45 days to approve  
22 the form or deny approval of the form. On the written request of the  
23 person submitting the form, the commissioner may agree in writing  
24 to extend the approval period for an additional 45 days. If after  
25 the 45th day, or the 90th day if the commissioner agrees to an  
26 extension, the commissioner does not deny the form, the form is  
27 considered approved.

1 (c) If the debt cancellation agreement form is approved by  
2 the commissioner or considered approved as provided by Subsection  
3 (b), the terms of the debt cancellation agreement are considered to  
4 be in compliance with this chapter [~~subchapter~~].

5 (d) The commissioner may deny approval of a form only if the  
6 form excludes the language required by Sections 354.003 [~~348.602~~]  
7 and 354.004 [~~348.603~~] or contains any inconsistent or misleading  
8 provisions. All form denials may be appealed to the finance  
9 commission.

10 (e) If after approval of a form the Office of Consumer  
11 Credit Commissioner discovers that approval could have been denied  
12 under Subsection (d), the commissioner may order a retail seller,  
13 any administrator of the debt cancellation agreement, or a holder  
14 to submit a corrected form for approval. Beginning as soon as  
15 reasonably practicable after approval of the corrected form, the  
16 retail seller, administrator, or holder shall use the corrected  
17 form for all sales.

18 (f) A debt cancellation agreement form that has been  
19 approved by the commissioner is public information subject to  
20 disclosure under Chapter 552, Government Code. Section 552.110,  
21 Government Code, does not apply to a form approved under this  
22 chapter [~~subchapter~~].

23 Sec. 354.006 [~~348.605~~]. ADDITIONAL REQUIREMENTS FOR DEBT  
24 CANCELLATION AGREEMENTS. (a) If a retail buyer purchases a debt  
25 cancellation agreement, the retail seller must provide to the  
26 retail buyer a true and correct copy of the agreement not later than  
27 the 10th day after the date of the [~~retail installment~~] contract.

1 (b) A holder must comply with the terms of a debt  
2 cancellation agreement not later than the 60th day after the date of  
3 receipt of all necessary information required by the holder or  
4 administrator of the agreement to process the request.

5 (c) A debt cancellation agreement may not knowingly be  
6 offered by a retail seller if:

7 (1) the [~~retail~~ installment] contract is already  
8 protected by gap insurance; or

9 (2) the purchase of the debt cancellation agreement is  
10 required for the retail buyer to obtain the extension of credit.

11 (d) This section does not apply to a debt cancellation  
12 agreement offered in connection with the purchase of a commercial  
13 vehicle.

14 (e) The sale of a debt cancellation agreement must be for a  
15 single payment.

16 (f) A holder that offers a debt cancellation agreement must  
17 report the sale of and forward money received on all such agreements  
18 to any designated party as prescribed in any applicable  
19 administrative services agreement, contractual liability policy,  
20 other insurance policy, or other specified program documents.

21 (g) Money received or held by a holder or any administrator  
22 of a debt cancellation agreement and belonging to an insurance  
23 company, holder, or administrator under the terms of a written  
24 agreement must be held by the holder or administrator in a fiduciary  
25 capacity.

26 (h) A retail seller that negotiates a debt cancellation  
27 agreement and subsequently assigns the contract shall:

1 (1) maintain documents relating to the agreement that  
2 come into the retail seller's possession; and

3 (2) on request of the Office of Consumer Credit  
4 Commissioner, cooperate in requesting and obtaining access to  
5 documents relating to the agreement not in the retail seller's  
6 possession.

7 Sec. 354.007 [~~348.606~~]. REFUND FOR DEBT CANCELLATION  
8 AGREEMENTS. (a) A refund or credit of the debt cancellation  
9 agreement fee must be based on the earliest date of:

10 (1) the prepayment of the [~~retail installment~~]  
11 contract in full before the original maturity date;

12 (2) a demand by the holder for payment in full of the  
13 unpaid balance or acceleration;

14 (3) a request by the retail buyer for cancellation of  
15 the debt cancellation agreement; or

16 (4) the total denial of a debt cancellation request  
17 based on one of the exclusions listed in Section 354.003 [~~348.602~~],  
18 except in the case of a partial loss of the covered [~~motor~~] vehicle.

19 (b) The refund or credit for the debt cancellation agreement  
20 can be rounded to the nearest whole dollar. A refund or credit is  
21 not required if the amount of the refund or credit calculated is  
22 less than \$5.

23 (c) If total loss or theft has not occurred, the retail  
24 buyer may cancel the debt cancellation agreement not later than the  
25 30th day after the date of the [~~retail installment~~] contract or the  
26 issuance of the debt cancellation agreement, whichever is later, or  
27 a later date as provided under the debt cancellation agreement. On

1 cancellation, the holder or any administrator of the agreement  
2 shall refund or credit the entire debt cancellation agreement fee.  
3 A retail buyer may not cancel the debt cancellation agreement and  
4 subsequently receive any benefits under the agreement.

5 (d) A holder may in good faith rely on a computation by any  
6 administrator of the agreement of the balance waived, unless the  
7 holder has knowledge that the computation is not correct. If a  
8 computation by the administrator of the balance waived is not  
9 correct, the holder must within a reasonable time of learning that  
10 the computation is incorrect make the necessary corrections or  
11 cause the corrections to be made to the retail buyer's account.  
12 This subsection does not prevent the holder from obtaining  
13 reimbursement from the administrator or another responsible for the  
14 debt cancellation agreement or computation.

15 (e) If the debt cancellation agreement terminates due to the  
16 early termination of the contract, the holder shall, not later than  
17 the 60th day after the date the debt cancellation agreement  
18 terminates:

19 (1) refund or credit an appropriate amount of the debt  
20 cancellation agreement fee; or

21 (2) cause to be refunded or credited an appropriate  
22 amount of the debt cancellation agreement fee by providing written  
23 instruction to the appropriate person.

24 (f) The holder shall ensure that a refund or credit of an  
25 amount of a debt cancellation agreement fee made by another person  
26 under Subsection (e)(2) is made not later than the 60th day after  
27 the date the debt cancellation agreement terminates.



1 to a lease that is a retail installment transaction under Section  
2 345.068 or 348.002.

3 Sec. 397.003. RELATIONSHIP TO INSURANCE. A debt  
4 cancellation agreement to which this chapter applies is not  
5 insurance.

6 Sec. 397.004. LIMITATION ON CERTAIN DEBT CANCELLATION  
7 AGREEMENTS. (a) This chapter applies only to a debt cancellation  
8 agreement, including a gap waiver agreement or other similarly  
9 named agreement, that includes insurance coverage as part of the  
10 lessee's responsibility to the holder.

11 (b) The amount charged for a debt cancellation agreement  
12 made in connection with a lease may not exceed five percent of the  
13 adjusted capitalized cost financed pursuant to the lease.

14 (c) The debt cancellation agreement becomes a part of or a  
15 separate addendum to the lease and remains a term of the lease on  
16 the assignment, sale, or transfer by the holder.

17 Sec. 397.005. DEBT CANCELLATION AGREEMENTS EXCLUSION  
18 LANGUAGE. (a) In addition to the provisions required by Section  
19 397.006, a debt cancellation agreement must fully disclose all  
20 provisions permitting the exclusion of loss or damage including, if  
21 applicable:

22 (1) an act occurring after the original maturity date  
23 or date of the holder's acceleration of the lease;

24 (2) any dishonest, fraudulent, illegal, or  
25 intentional act of any authorized driver that directly results in  
26 the total loss of the covered vehicle;

27 (3) any act of gross negligence by an authorized

- 1 driver that directly results in the total loss of the covered  
2 vehicle;
- 3           (4) conversion, embezzlement, or concealment by any  
4 person in lawful possession of the covered vehicle;
- 5           (5) lawful confiscation by an authorized public  
6 official;
- 7           (6) the operation, use, or maintenance of the covered  
8 vehicle in any race or speed contest;
- 9           (7) war, whether or not declared, invasion,  
10 insurrection, rebellion, revolution, or an act of terrorism;
- 11           (8) normal wear and tear, freezing, or mechanical or  
12 electrical breakdown or failure;
- 13           (9) use of the covered vehicle for primarily  
14 commercial purposes;
- 15           (10) damage that occurs after the covered vehicle has  
16 been repossessed;
- 17           (11) damage to the covered vehicle before the purchase  
18 of the debt cancellation agreement;
- 19           (12) unpaid insurance premiums and salvage, towing,  
20 and storage charges relating to the covered vehicle;
- 21           (13) damage related to any personal property attached  
22 to or within the covered vehicle;
- 23           (14) damages associated with falsification of  
24 documents by any person not associated with the lessor or other  
25 person canceling the lessee's obligation;
- 26           (15) any unpaid debt resulting from exclusions in the  
27 lessee's primary physical damage coverage not included in the debt

1 cancellation agreement;

2 (16) abandonment of the covered vehicle by the lessee  
3 only if the lessee voluntarily discards, leaves behind, or  
4 otherwise relinquishes possession of the covered vehicle to the  
5 extent that the relinquishment shows intent to forsake and desert  
6 the covered vehicle so that the covered vehicle may be appropriated  
7 by any other person;

8 (17) any amounts deducted from the primary insurance  
9 carrier's settlement due to prior damages; and

10 (18) any loss occurring outside the United States or  
11 outside the United States and Canada.

12 (b) An exclusion of loss or damage not listed in Subsection  
13 (a) may be included in a debt cancellation agreement only if the  
14 exclusion is disclosed in plain, easy to read language.

15 Sec. 397.006. REQUIRED DEBT CANCELLATION AGREEMENT  
16 LANGUAGE. A debt cancellation agreement must state:

17 (1) the contact information of the lessor, the holder,  
18 and any administrator of the agreement;

19 (2) the name and address of the lessee;

20 (3) the cost and term of the debt cancellation  
21 agreement;

22 (4) the procedure the lessee must follow to obtain  
23 benefits under the terms of the debt cancellation agreement,  
24 including a telephone number and address where the lessee may  
25 provide notice under the debt cancellation agreement;

26 (5) the period during which the lessee is required to  
27 notify the lessor, the holder, or any administrator of the

1 agreement of any potential loss under the debt cancellation  
2 agreement for total loss or theft of the covered vehicle;

3 (6) that in order to make a claim, the lessee must  
4 provide or complete some or all of the following documents and  
5 provide those documents to the lessor, the holder, or any  
6 administrator of the agreement:

7 (A) a debt cancellation request form;

8 (B) proof of loss and settlement payment from the  
9 lessee's primary comprehensive, collision, or uninsured or  
10 underinsured motorist policy or other parties' liability insurance  
11 policy for the settlement of the insured total loss of the covered  
12 vehicle;

13 (C) verification of the lessee's primary  
14 insurance deductible;

15 (D) a copy of any police report filed in  
16 connection with the total loss or theft of the covered vehicle; and

17 (E) a copy of the damage estimate;

18 (7) that documentation not described by Subdivision  
19 (6) or required by the lessor, the holder, or any administrator of  
20 the agreement is not required to substantiate the loss or determine  
21 the amount of debt to be canceled;

22 (8) that notwithstanding the collection of the  
23 documents under Subdivision (6), on reasonable advance notice the  
24 lessor, the holder, or any administrator of the agreement may  
25 inspect the lessee's covered vehicle;

26 (9) that the lessor or holder will cancel all or part  
27 of the lessee's obligation as provided in the debt cancellation

1 agreement on the occurrence of total loss or theft of the covered  
2 vehicle;

3 (10) the method to be used to calculate refunds;

4 (11) the method for calculating the amount to be  
5 canceled under the debt cancellation agreement on the occurrence of  
6 total loss or theft of a covered vehicle;

7 (12) that purchase of a debt cancellation agreement is  
8 not required for the lessee to obtain a lease and will not be a  
9 factor in the lease approval process;

10 (13) that in order to cancel the debt cancellation  
11 agreement and receive a refund, the lessee must provide a written  
12 request to cancel to the lessor, the holder, or any administrator of  
13 the agreement;

14 (14) that if total loss or theft of the covered vehicle  
15 has not occurred, the lessee has 30 days from the date of the lease  
16 or the issuance of the debt cancellation agreement, whichever is  
17 later, or a longer period as provided under the debt cancellation  
18 agreement, to cancel the debt cancellation agreement and receive a  
19 full refund; and

20 (15) that the lessor will cancel certain amounts under  
21 the debt cancellation agreement for total loss or theft of a covered  
22 vehicle, in the following or substantially similar language: "YOU  
23 WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS LEASE IN THE CASE OF A  
24 TOTAL LOSS OR THEFT OF THE COVERED VEHICLE AS STATED IN THE DEBT  
25 CANCELLATION AGREEMENT."

26 Sec. 397.007. ADDITIONAL REQUIREMENTS FOR DEBT  
27 CANCELLATION AGREEMENTS. (a) If a lessee purchases a debt

1 cancellation agreement, the lessor must provide to the lessee a  
2 true and correct copy of the agreement not later than the 10th day  
3 after the date of the lease.

4 (b) A holder must comply with the terms of a debt  
5 cancellation agreement not later than the 60th day after the date of  
6 receipt of all necessary information required by the holder or  
7 administrator of the agreement to process the request.

8 (c) A debt cancellation agreement may not knowingly be  
9 offered by a lessor if:

10 (1) the lease is already protected by gap insurance;  
11 or

12 (2) the purchase of the debt cancellation agreement is  
13 required for the lessee to obtain the lease.

14 (d) This section does not apply to a debt cancellation  
15 agreement offered in connection with the lease of a commercial  
16 vehicle.

17 (e) The sale of a debt cancellation agreement must be for a  
18 single payment.

19 (f) A holder that offers a debt cancellation agreement must  
20 report the sale of and forward money received on all such agreements  
21 to any designated party as prescribed in any applicable  
22 administrative services agreement, contractual liability policy,  
23 other insurance policy, or other specified program documents.

24 (g) Money received or held by a holder or any administrator  
25 of a debt cancellation agreement and belonging to an insurance  
26 company, holder, or administrator under the terms of a written  
27 agreement must be held by the holder or administrator in a fiduciary

1 capacity.

2 (h) A lessor that negotiates a debt cancellation agreement  
3 and subsequently assigns the lease shall maintain documents  
4 relating to the agreement that come into the lessor's possession.

5 Sec. 397.008. REFUND FOR DEBT CANCELLATION AGREEMENTS.

6 (a) A refund or credit of the debt cancellation agreement fee must  
7 be based on the earliest date of:

8 (1) the prepayment of the lease in full before the  
9 original maturity date;

10 (2) a demand by the holder for payment in full of the  
11 unpaid balance or acceleration;

12 (3) a request by the lessee for cancellation of the  
13 debt cancellation agreement; or

14 (4) the total denial of a debt cancellation request  
15 based on one of the exclusions listed in Section 397.005, except in  
16 the case of a partial loss of the covered vehicle.

17 (b) The refund or credit for the debt cancellation agreement  
18 can be rounded to the nearest whole dollar. A refund or credit is  
19 not required if the amount of the refund or credit calculated is  
20 less than \$5.

21 (c) If total loss or theft has not occurred, the lessee may  
22 cancel the debt cancellation agreement not later than the 30th day  
23 after the date of the lease or the issuance of the debt cancellation  
24 agreement, whichever is later, or a later date as provided under the  
25 debt cancellation agreement. On cancellation, the holder or any  
26 administrator of the agreement shall refund or credit the entire  
27 debt cancellation agreement fee. A lessee may not cancel the debt

1 cancellation agreement and subsequently receive any benefits under  
2 the agreement.

3 (d) A holder may in good faith rely on a computation by any  
4 administrator of the agreement of the balance waived, unless the  
5 holder has knowledge that the computation is not correct. If a  
6 computation by the administrator of the balance waived is not  
7 correct, the holder must within a reasonable time of learning that  
8 the computation is incorrect make the necessary corrections or  
9 cause the corrections to be made to the lessee's account. This  
10 subsection does not prevent the holder from obtaining reimbursement  
11 from the administrator or another responsible for the debt  
12 cancellation agreement or computation.

13 (e) If the debt cancellation agreement terminates due to the  
14 early termination of the lease, the holder shall, not later than the  
15 60th day after the date the debt cancellation agreement terminates:

16 (1) refund or credit an appropriate amount of the debt  
17 cancellation agreement fee; or

18 (2) cause to be refunded or credited an appropriate  
19 amount of the debt cancellation agreement fee by providing written  
20 instruction to the appropriate person.

21 (f) The holder shall ensure that a refund or credit of an  
22 amount of a debt cancellation agreement fee made by another person  
23 under Subsection (e)(2) is made not later than the 60th day after  
24 the date the debt cancellation agreement terminates.

25 (g) The holder shall maintain records of any refund or  
26 credit of an amount of a debt cancellation agreement fee made under  
27 Subsection (e) and provide electronic access to those records until

1 the later of the fourth anniversary of the date of the lease or the  
2 second anniversary of the date of the refund or credit.

3 Sec. 397.009. ENFORCEMENT. (a) If the attorney general  
4 has reason to believe that a person is engaging in, has engaged in,  
5 or is about to engage in any method, act, or practice that is a  
6 violation of this chapter, the attorney general may bring an action  
7 in the name of the state against the person to restrain the person  
8 by temporary restraining order, temporary injunction, or permanent  
9 injunction from engaging in the method, act, or practice.

10 (b) An action brought under Subsection (a) may be commenced  
11 in the district court of the county in which the person against whom  
12 the action is brought resides, has the person's principal place of  
13 business, or has done business, in the district court of the county  
14 in which any or all parts of the method, act, or practice giving  
15 rise to the action occurred, or, on the consent of the parties, in a  
16 district court of Travis County. The court may issue a temporary  
17 restraining order, temporary injunction, or permanent injunction  
18 to restrain or prevent a violation of this chapter and injunctive  
19 relief must be issued without bond.

20 (c) In addition to the request for a temporary restraining  
21 order, temporary injunction, or permanent injunction, the attorney  
22 general may request, and the trier of fact may award, a civil  
23 penalty to be paid to the state in an amount of not more than \$20,000  
24 per violation.

25 (d) The attorney general may recover reasonable expenses  
26 incurred in obtaining injunctive relief or a civil penalty under  
27 this section, including reasonable investigative costs, court

1 costs, and attorney's fees.

2 SECTION 8. Section 2301.002(36), Occupations Code, is  
3 amended to read as follows:

4 (36) "Vehicle lessor" means a person who leases or  
5 offers to lease a motor vehicle~~[, under a lease, transfers]~~ to  
6 another person under a lease agreement ~~[the right to possession and~~  
7 ~~use of a motor vehicle titled in the name of the lessor]~~.

8 SECTION 9. Subchapter L, Chapter 2301, Occupations Code, is  
9 amended by adding Section 2301.5555 to read as follows:

10 Sec. 2301.5555. AUTHORITY TO SIGN VEHICLE LEASE AS LESSOR.  
11 Notwithstanding Section 2301.251, a licensed vehicle lease  
12 facilitator may sign a vehicle lease agreement as a vehicle lessor  
13 before the vehicle lease is assigned, transferred, or conveyed to  
14 an ultimate lessor.

15 SECTION 10. This Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1052 passed the Senate on April 19, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 16, 2017, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1052 passed the House, with amendments, on May 11, 2017, by the following vote: Yeas 146, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor